

House File 161

H-1013

1 Amend the amendment, H-1007, to House File 161, as follows:

2 1. By striking page 1, line 1, through page 2, line 15, and  
3 inserting:

4 <Amend House File 161 as follows:

5 1. By striking everything after the enacting clause and  
6 inserting:

7 <Section 1. NEW SECTION. 135P.5 Demand for policy limits  
8 — prima facie evidence of bad faith.

9 1. If a health care provider or health facility makes an  
10 offer of compensation under section 135P.3, subsection 3,  
11 paragraph "d", subparagraph (2), the health care provider or  
12 health facility may provide the patient with the contents of  
13 any insurance agreement under which any person carrying on  
14 an insurance business may be liable to satisfy part or all  
15 of a judgment which may be entered in any civil action or  
16 to indemnify or reimburse for payments made to satisfy any  
17 judgment entered in any civil action filed by the patient  
18 against the health care provider or health facility.

19 2. If, at the end of the compensation discussion between  
20 a health care provider or health facility and a patient, the  
21 patient or patient's legal representative has made a demand  
22 for an amount that is less than or equal to the applicable  
23 policy limits, and the health care provider or health facility  
24 consents in writing to the payment by the insurance carrier  
25 of the demand, then the insurance carrier identified in  
26 any insurance agreement produced under subsection 1 shall  
27 respond in writing to the patient's demand within thirty days  
28 of receipt. If the insurance carrier refuses to pay the  
29 demand and the patient subsequently receives a verdict or  
30 judgment against the health care provider or health facility  
31 in an amount exceeding the applicable policy limits, then  
32 notwithstanding section 135P.2, the patient's demand for  
33 an amount that was less than or equal to the applicable  
34 policy limits, the health care provider or health facility's  
35 consent, and the insurance carrier's refusal to pay shall be

1 discoverable and admissible in any subsequent action against  
2 the insurance carrier for bad faith.

3 3. If the requirements of subsections 1 and 2 have been met  
4 and if a bad-faith action is filed against an insurance carrier  
5 for failure to pay a demand under subsection 2, then there  
6 shall be a rebuttable presumption of bad faith against the  
7 insurance carrier and in favor of the health care provider or  
8 health facility. Any subsequent verdict amount entered against  
9 an insurance carrier for bad faith under this subsection shall  
10 not be used by the insurance carrier to increase premiums  
11 charged to the insured health care provider, the insured health  
12 facility, or the health care industry as a whole.

13 4. If the requirements of subsections 1 and 2 have been  
14 met, any insurance carrier that refuses to settle the patient's  
15 demand within the applicable policy limits shall reimburse  
16 any defendant health care provider or health facility and any  
17 plaintiff court costs and incurred litigation expenses from the  
18 insurance carrier's refusal to settle the claim.

19 Sec. 2. Section 147.136A, subsection 2, Code 2023, is  
20 amended to read as follows:

21 2. The Subject to subsection 4, the total amount recoverable  
22 in any civil action for noneconomic damages for personal injury  
23 or death, whether in tort, contract, or otherwise, against a  
24 health care provider shall be limited to two hundred fifty  
25 thousand dollars for any occurrence resulting in injury or  
26 death of a patient regardless of the number of plaintiffs,  
27 derivative claims, theories of liability, or defendants in  
28 the civil action, shall not exceed two hundred fifty thousand  
29 dollars unless the jury or judge determines that there is  
30 a substantial or permanent loss or impairment of a bodily  
31 function, substantial disfigurement, or death, which warrants a  
32 finding that imposition of such a limitation would deprive the  
33 plaintiff of just compensation for the injuries sustained, in  
34 which case the amount recoverable shall not exceed five million  
35 dollars.

1     Sec. 3. Section 147.136A, Code 2023, is amended by adding  
2 the following new subsections:

3     NEW SUBSECTION. 4. The limitations on damages contained  
4 in subsection 2 shall increase by two and one-tenth percent  
5 on January 1, 2028, and each January 1 thereafter. In any  
6 civil action described in this section, such limitations on  
7 damages shall be the amount effective at the time of the  
8 occurrence. The commissioner of insurance shall publish the  
9 amount of the limitations on damages contained in this section  
10 on the insurances division's internet site and shall update the  
11 published amount annually.

12     NEW SUBSECTION. 5. Until January 1, 2028, an insurance  
13 carrier that writes medical malpractice insurance in this state  
14 shall not increase the premium paid by, charged to, or offered  
15 to any health care provider for medical malpractice insurance  
16 as of July 1, 2023. On January 1, 2028, an insurance carrier  
17 that writes medical malpractice insurance in this state may  
18 increase the premium paid by, charged to, or offered to any  
19 health care provider for medical malpractice insurance as of  
20 July 1, 2023, by no more than two and one-tenth percent, and  
21 may increase such premium by no more than two and one-tenth  
22 percent each January 1 thereafter. The commissioner of  
23 insurance shall approve any premium increase proposed by an  
24 insurance carrier under this subsection prior to the premium  
25 increase being imposed on a health care provider. For the  
26 purpose of this subsection, "*medical malpractice insurance*"  
27 means the same as defined in section 519A.2.

28     Sec. 4. APPLICABILITY. This Act applies to causes of action  
29 that accrue on or after the effective date of this Act.>

30     2. Title page, line 1, after <to> by inserting <adverse  
31 health care incidents, including>

32     3. Title page, line 1, after <against> by inserting <and  
33 medical malpractice insurance of>

34     4. Title page, line 2, by striking <effective date and>>

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